
HOUSE BILL No. 1065

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30.

Synopsis: Mandatory ignition interlock for DUI. Requires a court to prohibit a person convicted of operating while intoxicated from operating a motor vehicle that is not equipped with an ignition interlock device for: (1) at least six months if the person does not have a prior conviction for operating while intoxicated; or (2) at least one year if the person has a prior conviction for operating while intoxicated. Requires a court to order the installation of an ignition interlock device if the court grants a person probationary driving privileges in connection with an operating while intoxicated offense. Makes conforming amendments. Repeals superseded provisions.

Effective: July 1, 2009.

Crouch

January 7, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1065

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-7 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~(a) A person who violates a court~~
3 ~~order issued under section 16 of this chapter commits a Class A~~
4 ~~misdemeanor.~~

5 ~~(b)~~ (a) Except as provided in subsection ~~(c)~~; (b), a person who
6 knowingly assists another person who is restricted to the use of an
7 ignition interlock device to violate a court order issued under this
8 chapter commits a Class A misdemeanor.

9 ~~(c)~~ (b) Subsection ~~(b)~~ (a) does not apply if the starting of a motor
10 vehicle, or the request to start a motor vehicle, equipped with an
11 ignition interlock device:

12 (1) is done for the purpose of safety or mechanical repair of the
13 device or the vehicle; and

14 (2) the restricted person does not operate the vehicle.

15 ~~(d)~~ (c) A person who, except in an emergency, knowingly rents,
16 leases, or loans a motor vehicle that is not equipped with a functioning
17 ignition interlock device to a person who is restricted under a court



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order to the use of a vehicle with an ignition interlock device commits a Class A infraction.

~~(e)~~ (d) A person who is subject to an ignition interlock device restriction and drives another vehicle in an emergency situation must notify the court of the emergency within twenty-four (24) hours.

SECTION 2. IC 9-30-5-10, AS AMENDED BY P.L.126-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) In addition to a criminal penalty imposed for an offense under this chapter or IC 14-15-8, the court shall, after reviewing the person's bureau driving record and other relevant evidence, recommend the suspension of the person's driving privileges for the fixed period of time specified under this section. The court may require that a period of suspension recommended under this section be imposed, if applicable, before a period of incarceration or after a period of incarceration, or both before and after a period of incarceration, as long as the suspension otherwise complies with the periods established in this section. **Except as provided in subsection (g), if the court grants probationary driving privileges under this section, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.**

(b) If the court finds that the person:

(1) does not have a previous conviction of operating a vehicle or a motorboat while intoxicated; or

(2) has a previous conviction of operating a vehicle or a motorboat while intoxicated that occurred at least ten (10) years before the conviction under consideration by the court;

the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than two (2) years.

(c) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous conviction occurred more than five (5) years but less than ten (10) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one hundred eighty (180) days but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) If the court finds that the person has a previous conviction of operating a vehicle or a motorboat while intoxicated and the previous

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conviction occurred less than five (5) years before the conviction under consideration by the court, the court shall recommend the suspension of the person's driving privileges for at least one (1) year but not more than two (2) years. The court may stay the execution of that part of the suspension that exceeds the minimum period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay. ~~If the court grants probationary driving privileges under this subsection, the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse.~~ The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

(g) A court may not order the installation of an ignition interlock device on a vehicle owned, leased, or provided by the employee's employer and operated by an employee to whom any of the following apply:

- (1) Has been convicted of violating section 1 or 2 of this chapter.**
- (2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.**
- (3) Is subject to a labor agreement that prohibits an employee**

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1 who is convicted of an alcohol related offense from operating
2 the employer's vehicle.

3 SECTION 3. IC 9-30-5-18 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2009]: Sec. 18. (a) As used in this section, "impaired driving
6 offense" means an offense described in IC 9-30-5-1 through
7 IC 9-30-5-5.

8 (b) In addition to any sentence imposed on a person for a felony
9 or a misdemeanor, a court shall prohibit a person convicted of an
10 impaired driving offense from operating a motor vehicle unless the
11 vehicle is equipped with a functioning certified ignition interlock
12 device under IC 9-30-8. The court shall prohibit a person convicted
13 of an impaired driving offense from operating a motor vehicle not
14 equipped with a functioning certified ignition interlock device for
15 at least:

16 (1) six (6) months if the person does not have a previous
17 conviction for an impaired driving offense, including a
18 conviction for a substantially similar offense in another
19 jurisdiction; or

20 (2) one (1) year if the person has a previous conviction for an
21 impaired driving offense, including a conviction for a
22 substantially similar offense in another jurisdiction.

23 (c) The prohibition period described in subsection (b) may
24 begin, if applicable, before a period of incarceration or after a
25 period of incarceration, or both before and after a period of
26 incarceration, as long as the suspension otherwise complies with
27 the periods established in this section. The prohibition period may
28 extend one (1) year beyond a sentence imposed under IC 35-50-2
29 or IC 35-50-3. This subsection does not prohibit a court from
30 imposing a separate ignition interlock requirement as a condition
31 of pretrial release or in accordance with IC 9-30-6-8. However, any
32 period of time during which the person operated a motor vehicle
33 with an ignition interlock device installed as a condition of pretrial
34 release or under IC 9-30-6-8 does not count against the prohibition
35 period described in subsection (b).

36 (d) The person prohibited from operating a motor vehicle
37 without having an ignition interlock device installed shall pay the
38 cost of installation and monitoring unless the court determines that
39 the person is indigent.

40 SECTION 4. IC 9-30-8-3 IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2009]: Sec. 3. The bureau shall adopt rules
42 under IC 4-22-2 to establish standards and specifications for an ignition

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1 interlock device. ~~the installation of which the courts may mandate~~
2 ~~under IC 9-30-5-16~~. The standards and specifications must require at
3 a minimum that the device meets the following requirements:

- 4 (1) Is accurate.
5 (2) Does not impede the safe operation of a vehicle.
6 (3) Provides a minimum opportunity to be bypassed.
7 (4) Shows evidence of tampering if tampering is attempted.
8 (5) Has a label affixed warning that a person tampering with or
9 misusing the device is subject to a civil penalty.

10 SECTION 5. IC 9-30-8-5 IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2009]: Sec. 5. If a court orders a person ~~under~~
12 ~~IC 9-30-5-16~~ to operate only a vehicle that is equipped with an ignition
13 interlock device, the bureau shall include that condition when issuing
14 a license.

15 SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE
16 JULY 1, 2009]: IC 9-30-8-1; IC 9-30-5-16.

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